IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10133 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PASABHAI K ILASARIYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10133 of 2001

MR NK MAJMUDAR for Petitioner No. 1

MR RV DESAI, AGP for Respondent No. 1-2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 18/09/2002

ORAL JUDGEMENT

Rule. Mr RV Desai, learned AGP waives service of Rule.

2. What is challenged in this petition under Article 226 of the Constitution is the communication dated Nil

April, 1999 from the Collector, Banaskantha informing the petitioner that his application for compassionate appointment could not be granted because the monthly income of the family was exceeding the prescribed limit.

3. Mr NK Majmudar, learned counsel for the petitioner submits that the petitioner's father expired on 9.8.1988 and that after attaining majority the petitioner preferred an application in the prescribed form seeking appointment on compassionate ground, but the application has been rejected only on the ground that the income of the family exceeds the prescribed limit.

At the hearing of this petition today, Mr Majmudar seeks leave to place on record a copy of the Government Resolution dated 7.9.2002 and invites the attention of the Court to para 1 of the said resolution laying down that with effect from 1.1.1996 there will be no income limit for considering the case for compassionate appointment, since after the introduction of the Fifth Pay Commission pay-scales, the amount of family pension is such that it would not be possible for the family of the deceased to have income less than the income limit prescribed by the Government earlier. In short, with effect from 1.1.1996, there will be no income limit while considering the application for compassionate appointment.

Leave as prayed for is granted. The copy of the Government Resolution dated 7.9.2002 is taken on record.

4. In view of the above Government Resolution, the impugned reply dated Nil April, 1999 at Annexure "C" to the petition is quashed and set aside and the respondents are directed to reconsider the petitioner's application for compassionate appointment in light of the aforesaid Government Resolution dated 7.9.2002 without applying income limit.

5. The petition is accordingly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S. Shah, J.)
sundar/-